

1 the question, mischaracterizing prior
2 testimony. You may respond to that
3 question that you were just asked.

4 THE WITNESS: Now, like a year ago.

5 Q. Carlos, why do you use a cane?

6 MR. LEON: Objection, asked and
7 answered. You may respond to that
8 question again.

9 THE WITNESS: For my balance.

10 Q. Do you have issues with your
11 balance?

12 MR. LEON: You may respond.

13 THE WITNESS: Yes. A little.

14 Q. What issues do you have?

15 MR. LEON: Objection to the form of
16 the question. You may respond.

17 THE WITNESS: I don't have much
18 balance.

19 Q. And how long have you been like
20 that?

21 MR. LEON: Objection to the form of
22 that question. You may respond,
23 Mr. Chinchu.

24 THE WITNESS: One year.

25 Q. Have you ever undergone any

1 surgeries?

2 MR. LEON: Objection to the form of
3 the question. You may respond.

4 THE WITNESS: Yes.

5 Q. What surgeries?

6 MR. LEON: Same objection to this
7 line of questions. Objection to the
8 form. You may respond. And I'm sorry.
9 Also objection, relevance. You may
10 respond.

11 THE WITNESS: On my eye, glaucoma.

12 Q. When?

13 MR. LEON: Objection to the form of
14 that question. You may respond to that
15 question.

16 THE WITNESS: April 2015.

17 Q. So, you received the surgery in
18 April of 2015?

19 MR. LEON: Objection to the form of
20 that question. You may respond.

21 THE WITNESS: Yes. April 2015.

22 Q. Before April of 2015 were you
23 receiving any treatment for your glaucoma?

24 MR. LEON: Objection to the form of
25 the question. You may respond to that

1 THE WITNESS: Yes. I had another
2 surgery.

3 Q. What surgery?

4 MR. LEON: You may respond.

5 THE WITNESS: They gave me a
6 pacemaker.

7 Q. When did you receive that surgery?

8 MR. LEON: Objection to the form of
9 the question. You may respond.

10 THE WITNESS: May 2015.

11 Q. Were you also treated at Jamaica
12 Hospital Medical Center?

13 MR. LEON: Objection to the form of
14 that question. You may respond to that
15 question that Counsel just asked.

16 THE WITNESS: Yes.

17 Q. And why did you receive that
18 surgery?

19 MR. LEON: Objection to the form of
20 the question. You may respond.

21 THE WITNESS: Because I was not able
22 to walk.

23 Q. Prior to getting the surgery, how
24 long were you unable to walk for?

25 MR. LEON: Objection to the form of

1 that question. Ambiguous. You may
2 respond if you understand it.

3 THE WITNESS: One day.

4 Q. Can you describe to me what
5 happened?

6 MR. LEON: Objection to the form of
7 that ambiguous question. You may respond
8 to that ambiguous question.

9 THE WITNESS: I fainted and I got
10 his care. When I wanted to get up I
11 couldn't lift my legs.

12 Q. Besides the eye surgery and besides
13 the pacemaker surgery, did you receive any
14 other medical treatment in 2015?

15 MR. LEON: Objection to the form of
16 the question. You may respond to that
17 question.

18 THE WITNESS: No.

19 MR. LEON: Before you go on, it's
20 now 1:16. When we resumed we had agreed
21 to take a lunch break at 1:15, so I just
22 wanted to bring that up again.

23 MR. MIZRAHI: Would you like to take
24 that break now?

25 MR. LEON: Yeah, since it's 1:16.

1 the question. It's ambiguous. You may
2 respond to that question if you
3 understand it.

4 THE WITNESS: Can you repeat the
5 question, please?

6 Q. Carlos, after you received the eye
7 surgery in April of 2015, were you able to
8 stand for long periods of time?

9 MR. LEON: Objection to the form of
10 the question. It's ambiguous. You may
11 respond to that question if you
12 understand it.

13 THE WITNESS: Yes.

14 Q. Carlos, did the surgery that you
15 received in May 2015 negatively impact your
16 ability to engage in physical activities?

17 MR. LEON: Objection to the form of
18 that question, compound and ambiguous.
19 You may respond to the extent that you
20 understand that question.

21 THE WITNESS: Can you repeat the
22 question?

23 Q. Did the surgery that you received in
24 May 2015 negatively impact your ability to
25 engage in physical activity?

1 MR. LEON: Objection to the form of
2 that question. It's more ambiguous than
3 the previously withdrawn question. You
4 may respond to that question,
5 Mr. Chinchu.

6 THE WITNESS: No.

7 Q. Do you currently engage in any
8 physical activities?

9 MR. LEON: Objection to the form of
10 that question. Super confusing. You may
11 respond.

12 THE WITNESS: I go walking.

13 Q. Do you engage in any other physical
14 activities?

15 MR. LEON: Objection to the form of
16 that question. Confusing, ambiguous.
17 You may respond.

18 THE WITNESS: No.

19 Q. Are you able to engage in any other
20 physical activities besides walking?

21 MR. LEON: Objection to the form of
22 that question. Confusing, ambiguous and
23 also highly irrelevant. You may respond
24 to this question and this line of
25 questions one last time.

1 And just to clarify, like I said,
2 the last part, that he's going to answer
3 this line of questions one last time.

4 THE WITNESS: No.

5 Q. Earlier today, Carlos, you testified
6 that you get tired frequently; is that correct?

7 MR. LEON: Objection to the form of
8 that question and to the extent that it
9 mistakenly recounts prior testimony. You
10 may respond.

11 THE WITNESS: Now, recently, not
12 before.

13 Q. Do you need to rest during the day
14 because of your health problems?

15 MR. LEON: Objection to the form of
16 the question to the extent that it
17 assumes evidence and testimony not
18 previously acknowledged or admitted in
19 this action. You may respond.

20 THE WITNESS: Can you repeat the
21 question?

22 Q. Do you need to rest during the day
23 because of your health problems?

24 MR. LEON: Objection to the form of
25 the question and to the extent that it

1 misconstrues prior testimony or assumes
2 prior evidence and testimony that has not
3 been admitted into this action or this
4 deposition. Subject to those objections,
5 you may respond.

6 THE WITNESS: No.

7 Q. Did you have to rest during the day
8 because of the health problems that you've
9 previously described in 2015?

10 MR. LEON: Objection to the form of
11 the question. Confusing, lacks scope --
12 limited scope or clear scope. You may
13 respond.

14 THE WITNESS: Yes.

15 Q. And how long did you rest during the
16 day in 2015?

17 MR. LEON: Objection to the form, to
18 the extent that it assumes facts in
19 evidence not previously admitted, to the
20 extent that it is confusing and
21 misleading. You may respond if you
22 understand the question.

23 THE WITNESS: Could you repeat the
24 question?

25 Q. How long did you rest during the day

1 we're done, a clear question's asked --

2 I'm sorry. Did you just mute me?

3 Did you just mute me? Jason, did you

4 just mute me?

5 Madam Court Reporter, can you hear

6 me?

7 THE REPORTER: Yes, I can.

8 MR. LEON: Okay. Because, I just

9 saw "Muted by the host," so I'm not sure,

10 Jason, if you have access and you're

11 muting me. Because, if that's what

12 you're doing, then we're not going to

13 continue this until you stop doing that.

14 So, Jason, were you muting me?

15 Jason, were you muting me?

16 MR. MIZRAHI: No. I wasn't muting

17 you.

18 MR. LEON: Okay. Madam Court

19 Reporter and Mr. Translator and my

20 client, if at any point in time I'm

21 talking and it seems like I went mute,

22 please let me know so we can leave a

23 clear record.

24 So, what I was saying before is,

25 Mr. Mizrahi, you asked a question, I

1 break.

2 THE INTERPRETER: How long is the
3 break?

4 MR. MIZRAHI: We'll take a
5 two-minute.

6 MR. LEON: No, I'm sorry. I'm
7 sorry. You're not going to dictate how
8 long I'm going to use the bathroom for.

9 MR. MIZRAHI: We're going to take --

10 MR. LEON: No, no. Jason, you're
11 not going to dictate how long I'm going
12 to use the bathroom for. So, I'm taking
13 a bathroom break. I hope you can respect
14 biological necessities. Please. Please.

15 I'm going to take a five- to
16 ten-minute break and I'm going to ask my
17 client -- I'm going to ask my client --
18 I'm going to ask my client -- I'm going
19 to ask my client -- I'm going to ask my
20 client -- stop interrupting. Stop
21 interrupting. Stop interrupting. I'm
22 going to ask my client to turn off the
23 video --

24 THE INTERPRETER: I can't hear
25 anymore.

1 MR. MIZRAHI: He needs to go to the
2 bathroom. I'm not going to waste time
3 with him explaining --

4 THE INTERPRETER: The Witness cannot
5 hear us.

6 MR. LEON: Okay. I want this to be
7 translated, as well.

8 Jason, you've done this now three
9 times and I'm calling you out on it, that
10 when I've been talking on the record you
11 have abused the Zoom host -- now you're
12 walking out. I'm going to put this
13 statement on the record.

14 You have muted me when I've been
15 talking in order to stop me from making
16 statements on the record. You do that
17 again and this deposition will not
18 continue, Jason.

19 Do you understand me? I'm talking
20 to you. Because, you don't get to do
21 that. You don't get to shut my mic off
22 when I'm making a statement on the record
23 on behalf of my client.

24 How many more legally inappropriate
25 things can you do in this deposition?

1 You've already been told by the federal
2 court judge to stop asking inappropriate
3 questions. Now you're cutting off my
4 mic?

5 MR. MIZRAHI: Yeah.

6 MR. LEON: No. You don't get to do
7 that.

8 MR. MIZRAHI: You're wasting
9 everyone's time, so I'm cutting off your
10 mic.

11 MR. LEON: No, no.

12 MR. MIZRAHI: We're taking five
13 minutes.

14 MR. LEON: No, no. So, you admit
15 that you cut my mic off? You admit that
16 you cut my mic off?

17 MR. MIZRAHI: We'll come back in
18 five minutes.

19 MR. LEON: Have you admitted -- do
20 you admit that you cut my mic off
21 repeatedly now, at least two to three
22 times? Do you admit it?

23 Okay. You do that again,
24 deposition's over and you get to make an
25 application to the Judge. And you walked

1 away -- I'm still talking on the record,
2 the court reporter can get this.

3 You do not get to cut my mic. You
4 do that again, I can't trust that the
5 transcript is accurate and no fault of
6 the court reporter, the translator or my
7 client.

8 You do that again -- and just to
9 clarify, Mr. Mizrahi has walked away.
10 He's probably just a couple feet away
11 from the camera, can hear me. If he does
12 that again this deposition's over,
13 because I'm not going to allow that to
14 happen. It's inappropriate and if you do
15 it again I will request monetary
16 sanctions against you and your firm.

17 Hello, Mr. Mizrahi. You returned as
18 soon as that was done being translated,
19 so I'm going to assume you heard all
20 that. Thank you. We're going to be
21 taking that break now.

22 Mr. Chinchu, please have your
23 daughter cut off the mic and the video
24 while we take that break to stop Counsel
25 from engaging in anything that might be

1 appropriate. I am now exiting.

2 MR. MIZRAHI: Before we go off the
3 record I'd just like to make a point that
4 Counsel cannot use --

5 MR. LEON: We're off the record?
6 We're off the record?

7 THE REPORTER: No. We're not off
8 yet.

9 MR. LEON: Oh, okay. So,
10 Mr. Chinchu, please have your daughter
11 cut your video and your mic so that
12 Counsel can have a conversation on the
13 record.

14 Okay. All right. We're back on the
15 record. So, my client is not on this
16 call right now or this part of the Zoom
17 deposition.

18 What were you saying, Jason?

19 MR. MIZRAHI: I would like to make a
20 quick statement before we break.

21 MR. LEON: I'm listening.

22 MR. MIZRAHI: I'd like to make a
23 statement for the record that counsel is
24 prohibited from engaging in any ex parte
25 conversations or consultations with his

C E R T I F I C A T E

STATE OF NEW YORK)

: ss

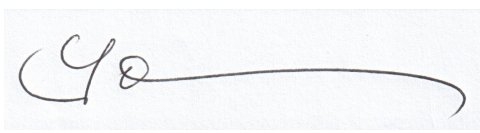
COUNTY OF NEW YORK)

I, TONI FREEMAN GREENE, a Notary
Public within and for the State of New York, do
hereby certify:

That CARLOS CHINCHA, the witness
whose deposition is hereinbefore set forth, was
duly sworn by me and that such deposition is a
true record of the testimony given by such
witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of April, 2020.



TONI FREEMAN GREENE